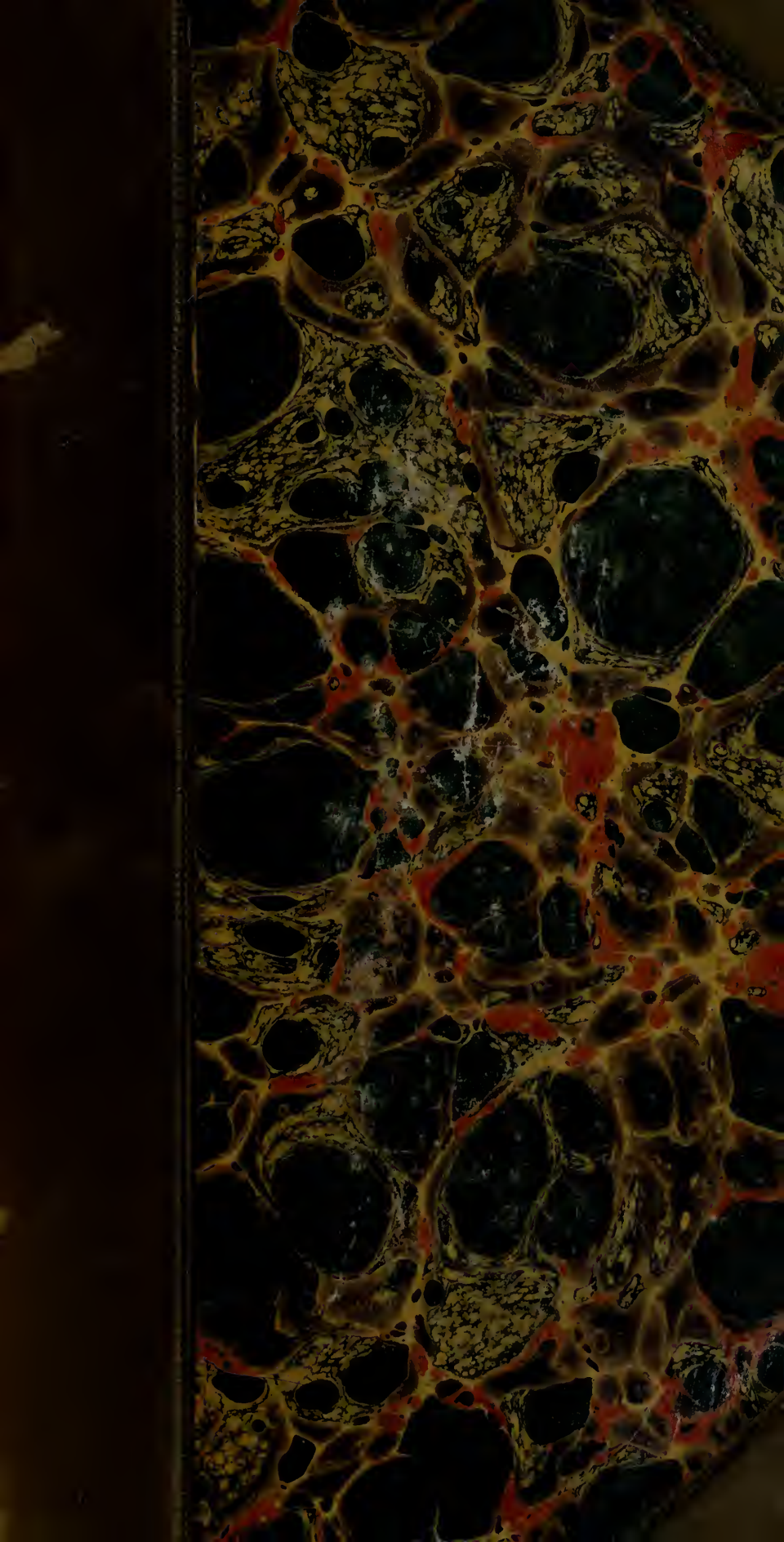

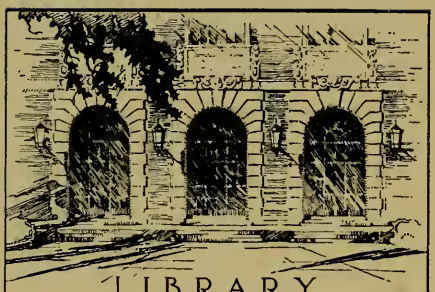

LOCAL TAXATION

A PAPER

ON THE

Excessive Rating of Tithe Rentcharge

SPEECH OF MR. GLADSTONE, HOUSE OF COMMONS, DECEMBER 16, 1852

"The clergy have a real grievance. It is admitted by all authorities—Professor Jones, Mr. Cornewall Lewis, and every man who has examined the subject of local rating—that the clergy suffer cruelly by being rated upon their gross incomes. It is from local taxation that the clergyman suffers."

Price Sixpence.

[*SECOND EDITION.*]

[B—12]

On the Excessive Rating of Tithe Rentcharge

A PAPER

READ IN

THE ECONOMY AND TRADE SECTION

OF THE

Social Science Association

AT PLYMOUTH, SEPTEMBER, 1872

BY THE

REV. R. HOBHOUSE

RECTOR OF ST. IVE, NEAR LISKEARD, IN THE COUNTY OF CORNWALL

SECOND EDITION.

London

RIVINGTONS, WATERLOO PLACE

HIGH STREET, Oxford | TRINITY STREET, Cambridge

1875

NOTE TO SECOND EDITION.

Communications which have been made to the writer, by readers of the first edition of this paper in various parts of the country, lead him to think that the burden of rates upon tithe rentcharge, which is mentioned at p. 4, is considerably understated.

Within the last fortnight a meeting of the Chairmen and Officers of Assessment Committees in Cornwall has been held at St. Austell, the Chairman of which (who is a great local and county authority) stated that in his (the St. Austell) Union a deduction of 25 per cent from the gross rentcharge would barely cover the cost of the rates.

R. H.

23*rd January*, 1875.

LOCAL TAXATION

Rating of Tithe Rentcharge

EXTRACT FROM AN ARTICLE IN THE EDINBURGH REVIEW *FOR JANUARY* 1872, *ON "THE LAND, THE CHURCH, AND THE LIBERALS."*

"The tithe-owner stands in a disadvantageous position compared with his brother ratepayers, because he is compelled to show his cards in a manner they are not. The tithe commutation is a known and ascertained amount: and the tithe-owner is thus entered on the rate-book at the *full* amount; whereas, Assessment Committees notwithstanding, other properties are entered at *less* than their net annual value. Moreover, it has been held by a recent decision, that the stipend of a Curate is not to be deducted from the tithe rentcharge of the Incumbent, in fixing its rateable value. This decision has reversed the former construction of law: and at all events, in extensive and populous parishes, where a curate is not a luxury, but a necessity, appears attended with no slight degree of hardship."

[The points mentioned in the above extract are not handled in the following paper. But the extract will serve to support the assertion that the tithe-owner has at least one grievance: and does not complain without reason.]

Introductory.

NO one, I think, has ever heard without astonishment of the sums that are paid in the form of rates by the tithe-owning clergy; nor of the proportion which those sums bear to the whole of the tithe rentcharge. A small body of clergy who looked into the matter a few years ago, found that from one-sixth to one-fourth of their rentcharges were thus consumed; that is, from 17 to 25 per cent. This possibly might not be the case now, because some relief has certainly been given by the "Union Assessment Committee Act, 1862:" by which the great bulk of landed and house property has been rated more nearly up to its proper

value, while the tithe rentcharge has hardly been raised at all; in many cases it has been lowered.

But in spite of this relief, the burden of rates is still very heavy indeed. An inquiry into a few scattered cases shows it to be, at the present moment, in those cases, from 13 to 14 per cent.; i. e., a man with 200*l.* a year (besides paying his income tax, assessed taxes, and indirect taxes) is mulcted of no less than from 26*l.* to 28*l.* a year for parochial rates;[1] and probably 5*l.* or 6*l.* a year more for landtax, the amount of which depends partly on the amount of his rateable value. Every one will admit this to be severe.

And if, in looking about us, we could see that tithe rentcharge was rated in the same manner as other property, we should have no reason to complain, as compared with the owners and occupiers of other real estate. But we believe that we have a ground of complaint over and above any of theirs; and this it is the object of the present paper to point out, with a view to a remedy, if possible.

The ground of our complaint.

What then is the reason why rates press more heavily on the tithe-owner than on others? The reason is this, that *the tithe-owner is the only person*

[1] In the short discussion which followed this paper, a gentleman expressed his entire disbelief in the amount here spoken of: thus curiously verifying the remark with which the paper begins. But what will be the amount when sanitary rate, school rate, and turnpike-road rate shall have been added? And it must be remembered that when the tithe-owner has paid these rates on his tithe, then he begins to pay, like other people, on his house, and any land that he may occupy.

rated on his income. Let any professional person ask himself what he would have to pay if he was rated on his professional receipts; income or salary; and then he will be able to judge somewhat of the amount paid by the tithe-owner.

The tithe-owner, I say, is the only person rated on his income. The tithe rentcharge is property, and hence are all its hardships. But it is property *of a peculiar nature, and peculiarly circumstanced*, as I hope to show. But first let us consider that it partakes also of the nature of professional income; and still more, perhaps, of the nature of a fixed official salary.

Tithe rentcharge is property of a peculiar nature.

It partakes of the nature of professional income, and of fixed official salary.

"Professional income!" you will say, "why, it is fixed and certain, not precarious!" Yet it is rather more precarious than you might think; depending, not only on morality and orthodoxy (about which I should not wish to say anything), but also on health and strength. If health fails, or old age comes on, the income must at least be diminished by the necessity of paying some one to perform the duties. To this extent, at least, it is precarious, and the attributes of "property" are thus largely modified.

If the ministry is a profession, the income will naturally be dependent on the exercise of that profession. Don't say it is a profession favourably circumstanced because the income cannot fall off, for I have just shown you that it can, and in many cases does, when the minister becomes incapacitated for

Compare it with professional income.

his duties. And if you say it is quite right that it should be so, I do not deny that; but I ask, Is it right that he should be rated on his professional income, which we thus find to be, like other professional incomes, precarious? or that he should be rated *on the whole amount*, after it has been thus diminished?

It may be diminished, but cannot be increased.

For while it is thus true that the amount is often diminished, it is equally true that *by no possible exertions can it be increased.* The duties are sometimes comparatively light; then the payment is generally light also. But, be the duties ever so heavy, there is no necessary proportion between them and the payment. Or if, from being comparatively light, they become heavy (as is often the case by the increase of population), still there is no increase of income. The duties often increase, so that an assistant is required, or even two assistants; still there is no increase of income. In this respect it is unlike any other profession, in which an increase of work may be said always to produce increased pay. I do not, of course, say that the pay should be directly proportioned to the duties; but these considerations, which arise in comparing tithe rentcharge with professional income, should surely prevent the former from being overburdened with rates, while the latter pays none—these considerations, I mean, viz.,

1st. That the income from tithe rentcharge is to a certain extent precarious:

2nd. That it is often entirely disproportioned to the duties and the responsibility: and

3rd. That it is incapable of increase, let the duties or the responsibility increase ever so much.[1]

Compare it with the salary of an office.

Much more similar is clerical tithe rentcharge to the salary of a place or office. Indeed, it would seem to be in no way different from that, except in being freehold. "Well, that," you will say, "makes all the difference." But I am going to show you that its character of a freehold is much limited and encroached upon, in comparison with other freehold property.

Here, then, is an office with a salary. Who will hold the office, perform the duties, and pay rates upon the salary? Are there no other freehold places or offices? If so, do they pay rates? I think not. But you say the income of this is from land. Well, that would raise the question whether the land only should pay rates. I do not propose to enter on that question. Let it be assumed or admitted that it is so. The fact is so. Then I beg you to observe this: that we hold a place with a fixed income, large or small, for which we have to perform duties; and upon that income we pay rates; which no other place-holder does. If the duties cannot be performed by one person, we must provide a second—still paying the same rates

[1] I do not here forget the increase arising from the Corn Law averages; and I would not be supposed to undervalue it. But that *has* been a *de*crease; possibly may be so again; has no reference to duty, responsibility, or exertion; and is duly rated year by year.

as before. Sometimes we have to provide even a third; yet still paying the same rates, as though the income was equally valuable as at first.[1] If we cannot provide these assistants, we must sink under the weight of the duties (as many do), or they must be left undone (as they often are, in great measure). But *where is the justice of assuming*, all the time, *that the pecuniary value of the income is unaltered*, and rating it accordingly?

These duties do, in fact, very largely affect the pecuniary value of tithe rentcharge, and make it to be property of a very peculiar kind—different from all other property. And yet it is rated as if it was the same as landed property, or worse even than that, as I will endeavour to show.

Compare it with landed property.

Compare it with ordinary landed property. This does not pay rates on the whole of its income, as tithe rentcharge does, but is rated on that part only which is represented by the rent. It is a question often discussed, whether the tenant ultimately pays the rates, or the landlord. I am not about to discuss that question here; but it is obvious that the very existence of the question shows that *both* landlord and tenant do not pay: so that, either, one of these classes escapes altogether, or else the burden is divided between them. Thus, if a farmer should be pro-

[1] Is it not the case with most other official situations, that if the duties become too onerous for one person, relief is given at the public expense?

duced who was paying exactly the same amount of rates as a tithe-owner, it would be found, I think, on investigation, that the sum so paid by the farmer issued out of a property whose gross value was about three times as great, and its nett value about twice as great, as that of the tithes.

For the land, as I have said, is rated only on its rental (with some deductions from that) : and rental is considered to be only a third of the produce; so that land is rated on *only a third* of its total gross value, with deductions; but the tithe rentcharge is rated on the *whole* of its value, with deductions.

Two-thirds of the gross produce of the land are exempt from rating. What are these two-thirds? One of them is held to be absorbed by the farmer's expenditure in carrying on his business; in labour, manure, implements, rates, &c. The other is the farmer's profit, whereby he maintains his family, and advances in life. Each of these thirds is supposed to be about equal to the other third (the rent); but neither of them is rated; and so it comes to pass that land is rated on only a third part of its entire gross value.

Now, if you would make the same deductions from the tithe rentcharge as from the land, that would meet the justice of the case. I do not mean that the rentcharge should always be rated on only a third of its value; but that it should be set free, for rating purposes, from the expenses of

carrying out the work that is attached to it: just as the farmer's gross income is set free—that portion which is absorbed by the expenses of his business. These expenses would not be great in the case of the tithe-owner, except where there was the salary of a curate or curates to provide. You must set free also such portion of the tithe as may be fairly considered as salary, or payment for work done (and we can easily find a rule for estimating that portion[1]). The farmer's personal income, recollect, is not rated—that portion which constitutes the proper remuneration for his labour—so neither should it be in the case of the tithe-owner. And you must not say, "Oh! but the farmer's income is uncertain and precarious," because we have already agreed that one-third of the produce of the land (i. e. of the farmer's gross receipts) is to remain unrated; and I have also shown you that the tithe-owner's income is in some degree uncertain and precarious too.

With these deductions Social Science would be satisfied: a deduction for necessary expenses incurred, and the deduction of a sum for personal labour. But if you do not like to make such deductions, then, in all fairness, rate those portions of the farmer's income also. Allow him no deductions from the gross but rates and taxes, just as you allow us. Let him thus pay on his income,

[1] Pluralities Act, 1838 (see Appendix *infra*).

and the land-owner on his (minus his deductions for repairs and insurance, and expenses of management[1]) and then we shall be all alike: Social Science will be satisfied again. In this way, two-thirds of the gross proceeds of the land would be rated, instead of one-third, as now.

Compare tithe-owner with land-owner.

I venture to ask you to compare the tithe-owner's position with that of the land-owner. The latter may take his rent, and carry it where he will. The whole world is open to him, for business, for profit, or for pleasure. He may reside a hundred or a thousand miles away, and carry on a profitable business besides. Or, if he is resident, he has no legally imposed duties (none, that is, strictly imposed by law) except those of sheriff[2] (if his estate is large enough), or of parish officer (if it is small enough). Whereas the tithe-owner, if clerical, is tied (and most properly tied) to strict residence, and to the performance of active duties which often prove too much for him. And he is forbidden to carry on any other business. This being so, must not the pecuniary value of 100*l.* of tithe rentcharge be much less than that of 100*l.* of rent? Much less. And yet the former pays rates, the latter none. The rentcharge, that is, pays heavily; the rent not at all. But, if you say, "Yes, it does, for it is really the *owner* who

[1] Corresponding with the tithe-owner's "expenses of collection."

[2] This would be met by a rateable allowance of 10*l.*

pays the rates;" then the tenant *does not* pay, by your own showing.

Compare tithe-owner with tenant farmer.

Let us argue it, then, on that ground. The tenant does not pay. Why should the tenant, making his 100*l.*, more or less, not pay, and the tithe-owner pay? In other words, why should the time and labour of the farmer be deducted from the gross proceeds of the land, and those of the clergyman not be deducted? You ought either to deduct the clergyman's, or not deduct the farmer's.

Compare clerical tithe-owner with lay ditto.

The injustice suffered by the clerical tithe-owner may be seen, perhaps, still more clearly by comparing clerical tithe with lay or impropriate tithe. The owner of impropriate tithe has absolutely *no* duties to perform in connection with it, except, perhaps, the repair of the chancel. He may do what he likes with his tithe. He may take it where he likes; may employ himself and it in what he likes; may give or bequeath it to whom he likes; may be as great an invalid or as great a heretic as he likes. Does not this make it of much greater pecuniary value than the same amount of clerical tithe, for which continual duties must be performed *in situ*? And yet, in the same parish, these two properties are probably rated at exactly the same figure! Suppose them both for sale: would not 100*l.* of impropriate tithe fetch a much larger sum than the same amount of clerical tithe? The clerical tithe must be sold subject to the performance of its duties. This, I say, reduces its pecuniary

value. Why, then, should it be rated as high as the impropriate tithe?

Or, again, suppose a person rents both of these properties, binding himself to perform all the duties which appertain to each, how much would he give for them respectively? For the lay tithe he would give the whole amount, minus only the rates and taxes, expenses of collection, and a sum for the repair of the chancel. But to ascertain the rent to be given for the clerical tithe, he would have to deduct a sum to be paid to a person for performing the duties of the parish. So that each 100*l.* of clerical tithe would be reduced to a much smaller figure before it could be paid over by a tenant; and sometimes it would be quite annihilated. Why then should it be rated as high as the impropriate tithe? There can be no justice in that—nor any Social Science.

The "working portion" of the tithe to be exempt from rating.

That part of the tithe rentcharge, then, ought to be exempted from rating, which can fairly be considered as salary necessary to secure the performance of the sacred duties. And this portion is easily ascertained by the amount to be paid to a curate under the Pluralities Act.[1] This may be called the "working portion" of the tithe; and I say it ought not to be rated at all, unless the working portion of the proceeds of the land is also rated, which at present it is not. This working portion of the tithe is strictly analogous to the

[1] 1 and 2 Vict., cap. 106. See extract from this Act in Appendix.

salary of a freehold place or office; and ought to be as much exempt from rating as all such salaries are.[1] Whatsoever amount exists over and above this "working portion" may be rightly looked upon as "property," and rated accordingly, on the same grounds as other landed property. And if it be rated on the same reasonable basis as other property, that will cause a further deduction in some cases—viz. those cases which require the services of assistant curates. A deduction for this would be analogous to the allowance made for the farmer's outlay for labour, stock, manure, &c., in the rating of land.[2]

Conclusion. We conclude, then,

(1) That so far as clerical tithe is the salary of an office, it ought not to be rated. The surplus only, above such salary, can be fairly considered "property." That surplus only should be rated: and it should be rated on the same principle as other property, with deduction for all necessary expenses.

(2) If (not looking at any portion of it as salary) you rate it at what it would let for, you must suppose it to be let *on the same conditions as*

[1] In some parishes, where the amount of tithes is small, the whole would thus be exempted: exactly as the whole is (in such cases) absorbed by a curate's salary under the above-mentioned Act. What can be more unjust than to make a person pay the whole of his professional income to a curate, and yet to pay rates upon that income?

[2] It is not, however, this class of cases that is here principally insisted on; but they must be considered before *full* justice is done to the clerical tithe-owner.

land; viz., the *tenant to provide for the performance of those duties* which alone will enable the owner to continue to receive the rentcharge.[1] What rent would it then command?

(3) If it is looked at as the tenth part of the profits of the land (which it was professedly at the time of the commutation), then it is the tenth part of the landlord's profits, plus the tenth part of the tenant's profits. Now the tenant's profits are admittedly not rated at all; i.e. those nine-tenths of the tenant's profits which remain to him after the tithe has been taken away. Why, then, should the other tenth part be rated, viz. that part which is paid to the tithe-owner? Either rate both, or exempt both. If the tenth is rated, the other nine parts should be rated also.

(4) The principle of the Parochial Assessments Act, as applied in practice, appears to break down in the case of tithe rentcharge; viz. the principle that "all property shall be rated at what it may be reasonably expected to let for, free of all usual tenants' rates and taxes, and with a deduction of those expenses which are necessary to maintain the property in a state to command such rent." It breaks down, because these last-mentioned expenses are at present held to be not deductible in the case of the tithe rentcharge, and *they are so heavy as to place the tithe-owner in*

6 & 7 Wm. IV. cap. xcvi.

[1] By analogy with the rule laid down for all rating, in the Parochial Assessments Act, 1836.

a very disadvantageous position as compared with other ratepayers.

From the above statement of the case, it will be seen that justice to the tithe-owner may be done by either—(*a*) operating on the land; or, (*b*) operating on the tithe; or (*c*) operating on both.

(*a*) If the land is operated on, it must be by causing the owner to pay rates on the rent, minus certain deductions; and the occupier also to pay on the same amount.[1]

(*b*) If the tithe is operated on, it must be by exempting from rates the "working portion;" viz. that which is defined by the Pluralities Act as payable to a curate in case of non-residence. (Or else by deducting the expenses just above referred to in the Parochial Assessments Act; those, viz., which are necessary to maintain the property in a condition to command such rent.)

(*c*) If both are operated on, it must be by making the *saleable* value, and not the *lettable* value, the basis of rating. This latter has been proposed in the case of Government property, but no doubt it requires further consideration before being reduced to practice.

[1] There would still be a third part of the produce of the land (the working portion) unrated.

APPENDIX.

Extract from Pluralities Act, 1 & 2 Vict., cap. 106.

§ lxxxv. In every case in which an Incumbent does not duly reside, the Bishop shall appoint for the Curate licensed under this Act such stipend as is hereinafter next mentioned.

In no case less than 80*l.*

Nor less than 100*l.*, if the population amounts to 300.

Nor less than 120*l.*, if the population amounts to 500.

Nor less than 135*l.*, if the population amounts to 750.

Nor less than 150*l.*, if the population amounts to 1000.

Or if, in any of these cases, the whole income shall be less than the amount here assigned to a curate, then *the whole income is to be paid to him.*

N.B.—In all these cases, the sums here mentioned ought to be considered the "working portion" of the tithe, and exempted from rating accordingly, as the "working portion" of the land is exempted.

*** The subject of this paper is well handled, and authorities given, in a Report of the Committee of the Lower House of the Convocation of Canterbury "On the Rating of the Property of the Clergy." Rivingtons. Price 6*d.*